

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

April 30, 2001

**IN RE:**

**UNIVERSAL SERVICE GENERIC  
CONTESTED CASE**

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**DOCKET NO.  
97-00888**

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**ORDER SETTING PROCEDURAL SCHEDULE AND DEFINING  
ISSUES FOR MAY 1, 2001 AUTHORITY CONFERENCE**

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This matter came before Chairman Sara Kyle, acting as Pre-Hearing Officer at a Pre-Hearing Conference held on April 3, 2001.

**Procedural History**

The Authority convened the Universal Service Docket to establish an intrastate Universal Service funding mechanism pursuant to Tenn. Code Ann. § 65-5-207; 47 U.S.C. § 214 and § 254 of the Telecommunications Act of 1996 (the "Act"); and Federal Communications Commission ("FCC") Order 97-157.<sup>1</sup> The Tennessee Regulatory Authority ("Authority") initially determined that it would divide the docket into two phases, but later added a third phase to address rate rebalancing.

In Phase I, the Authority: 1) defined the general parameters for determining the size of the intrastate fund; 2) recognized the impact the size of the fund could have on competition; 3) concluded that the intrastate Universal Service fund should provide support to carriers providing discounted educational lines to schools and libraries and carriers serving customers in high cost areas and low-income customers; 4) defined the revenue benchmark to be used in calculating support at the wire center level; and 5) determined that the cost studies for each wire center should reflect the

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<sup>1</sup> See *In re Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 97-157, 12 FCC Rcd. 8776 (May 8, 1997).

forward-looking costs of providing the services included in the revenue benchmark.<sup>2</sup> In Phase II, the Authority: 1) addressed the appropriate level of cost for the Authority to use in calculating support for BellSouth Telecommunications, Inc. ("BellSouth") and United Telephone-Southeast, Inc. ("UTSE"); 2) adopted the HAI model; and 3) determined that BellSouth and UTSE needed to revise the revenue benchmarks so that the studies would be compliant with the methodologies adopted by the Authority for calculating the revenue benchmark.<sup>3</sup>

BellSouth and UTSE submitted revised revenue benchmarks on October 24, 2000. On November 3, 2000, AT&T Communications of the South Central States, Inc. ("AT&T") and Tennessee Cable Television Association filed comments on the October 24<sup>th</sup> filings.

At a regularly scheduled Authority Conference held on February 21, 2001, the Authority recognized that it needed to resolve or revisit certain issues. These included: 1) the need for an intrastate Universal Service fund for high cost areas; 2) compliance of the October 24, 2000 revenue benchmark filings with previous Authority orders; 3) the effect of the implementation of the federal CALLS Plan<sup>4</sup> when establishing an intrastate Universal Service fund; 4) clarification of Eligible Telecommunications Carrier ("ETC")<sup>5</sup> and Carrier of Last Resort ("COLR")<sup>6</sup> obligations; 5) funding for the Tennessee Relay Center ("TRC"); 6) inclusion of advanced services in the Universal Service fund; 7) inclusion of residential secondary lines in the Universal Service fund; and 8) necessary funding for intrastate discounts to schools and libraries.

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<sup>2</sup> See generally *In re: Universal Service Proceeding*, Docket No. 97-00888, *Interim Order on Phase I of Universal Service* (May 20, 1998).

<sup>3</sup> See generally *In re: Universal Service Proceeding*, Docket No. 97-00888, *Phase II Order Re: Determination of Cost Model and Revenue Benchmarks* (Sept. 22, 2000).

<sup>4</sup> CALLS in an acronym for Coalition for Affordable Local and Long Distance Service.

<sup>5</sup> The Authority adopted the use of the term ETC and the criteria for receiving ETC designation from federal legislation. Designation as an ETC by the Authority for state purposes permits a telecommunications carrier to receive intrastate Universal Service fund support. See *Interim Order on Phase I of Universal Service*, pp. 17-19, 25-26.

<sup>6</sup> The Authority uses the term "COLR" in these proceedings to describe a telecommunication service provider that has carrier-of-last-resort obligations as provided for in Tenn. Code Ann. § 65-5-207(a).

As a result of the deliberations, the Authority recognized that there were certain issues that required further briefing and discussion before proceeding to Phase III, rate rebalancing. The Authority ordered the parties to submit briefs and/or comments on the following issues: 1) how support received from the federal CALLS Plan should be accounted for in establishing the intrastate Universal Service fund; 2) whether the Authority should establish a mechanism to fund the TRC through the Universal Service fund at this time; 3) the deployment of advanced services in Tennessee, particularly the rural areas served by BellSouth Telecommunications, Inc. and United Telephone-Southeast, Inc., the deployment level of advanced services in Tennessee, how the Authority could use the Universal Service fund to accelerate the deployment of advanced services; and the availability of advanced services consistent with the Act; and 4) whether the Universal Service fund should support secondary residential lines in high cost areas including an analysis of the relationship between secondary residential lines and advance services and on how line sharing could impact the need for the Universal Service fund to support secondary lines. The Authority also ordered BellSouth and UTSE to submit: 1) a schedule showing the amount of Universal Service support received from the CALLS Plan in 2000 and anticipated in 2001 along with all supporting calculations; 2) a schedule showing the amount of support necessary to fund their existing intrastate educational discount provided to schools and libraries along with supporting calculations based on data for the twelve (12) months ended August 2000; 3) a summary sheet for each high cost wire center including the revenue benchmark, cost per line, the number of initial residential lines, and the necessary Universal Service support; and 4) a schedule showing the amount of support necessary to fund their respective intrastate Lifeline programs along with supporting calculations based on data for the twelve (12) months ended August 2000. The parties were to file all filings, comments or briefs as directed by the Authority on either March 7, 2001 or March 14, 2001.

### Pre-Hearing Conference

The Pre-Hearing Officer convened the Pre-Hearing Conference as scheduled on April 3, 2001. The parties in attendance were as follows:

Time Warner Communications of the Mid-South, Inc. - **Charles B. Welch, Jr., Esq.**, Farris, Mathews, Branan, Bobango & Hellen, PLC 618 Church Street, Suite 300, Nashville, Tennessee 37219;

BellSouth Telecommunications, Inc. – **Guy M. Hicks**, 333 Commerce Street, 22<sup>nd</sup> Floor, Nashville, TN 37201-3300;

United Telephone Southeast, Inc. – **James B. Wright**, Esquire, 14111 Capital Boulevard, Wake Forest, North Carolina 27587-5900;

Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter - **Vance Broemel**, Esquire, and **Shilina Chatterjee**, Esquire, Office of Attorney General, 425 5<sup>th</sup> Avenue North, Cordell Hull Building, Nashville, TN 37243-0500;

Southeastern Competitive Carriers Association - **Henry Walker, Esq.**, Boulton, Cummings, Connors & Berry, 414 Union Street, No. 1600, P.O. Box 198062, Nashville, TN 37219-8062;

AT&T Communications of the South Central States, Inc. – **James P. Lamoreux**, Esquire, 1200 Peachtree Street, N.E., Room 4060, Atlanta, GA 30309; and

Verizon Wireless – **Chris Jones**, Associate Director of Area Public Policy, 1 Verizon Place MC-GA1B3LGL, Alpharetta, GA 30004

As the first order of business, the Pre-Hearing Officer recognized that AT&T previously filed wire center cost information on CD-ROM, but explained that it was necessary for AT&T to file this information in a written format. Thereafter, the Pre-Hearing Officer directed AT&T to file written HAI wire center cost information on or before April 6, 2001. The Pre-Hearing Officer next noted that the parties should be provided an opportunity to explain cost variations if AT&T's cost information differs from that submitted by BellSouth and UTSE. Thus, the Pre-Hearing Officer directed the parties to file a matrix outline on or before April 12, 2001 explaining any cost variations.

The Pre-Hearing Officer next turned to the issues the Authority requested the parties brief at the February 21, 2001 Authority Conference. The Pre-Hearing Officer informed the parties that the Authority would address the following issues at the May 1, 2001 Authority Conference unless otherwise noticed by the Authority: 1) should the federal CALLS Plan be included in the intrastate Universal Service fund; 2) should the intrastate portion of TRC cost be provided by the Universal Service fund at this time; 3) should the intrastate Universal Service fund support the acceleration of advance services; and 4) should the intrastate Universal Service fund support secondary residential lines. In addition, the Authority will consider the necessary support for Lifeline and educational discounts funding in light of the information provided by the parties as a result of the February 21, 2001 directive. Lastly, the Authority will commence Phase III by determining whether it should base rate rebalancing on the gross receipts of carriers or the net financial impact.<sup>7</sup>

At the conclusion of the Conference, the Pre-Hearing Officer noted that the Authority held in its *Interim Order on Phase I of Universal Service* that absent two exemptions all telecommunications carriers<sup>8</sup> shall contribute to the Universal Service fund.<sup>9</sup> The Pre-Hearing Officer then informed those present that telecommunications carriers would be given the opportunity to file comments on the issue of whether the Authority may request revenue information from and,

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<sup>7</sup> The net and gross approaches are methods for determining the rate adjustments required by statute to offset contributions received by telecommunications carriers providing services that are funded by the intrastate universal service fund. The net approach offsets the net of support received less contributions made. The gross approach offsets the total support received while reflecting contributions made by the carrier separately from the offsetting adjustments.

<sup>8</sup> In the *Interim Order on Phase I of Universal Service*, the Authority adopted the federal definitions of telecommunication carrier and services codified in 47 U.S.C. § 153. See *Interim Order on Phase I of Universal Service*, p. 25. This section defines telecommunications carrier as "any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title)." 47 U.S.C. § 153(44). An aggregator means "any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services." *Id.* § 226(a)(2). Section 153 defines telecommunications services as "the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used." *Id.* § 153(46).

<sup>9</sup> See *Interim Order on Phase I of Universal Service*, p. 27. The two exemptions include a temporary exemption for rural carriers and cooperatives as well as an exemption for carriers whose annual contribution would amount to less than \$1000. See *id.*

ultimately, require contribution to the Universal Service fund by commercial mobile radio service ("CMRS") providers as defined by the FCC.<sup>10</sup> The Pre-Hearing Officer stated that the Executive Secretary would issue a notice setting a due date for all comments on this issue.

**IT IS THEREFORE ORDERED THAT:**

1. AT&T Communications of the South Central States, Inc. shall file written HAI wire center cost information **no later than April 6, 2001**.

2. If AT&T Communications of the South Central States, Inc.'s cost information differs from that submitted by BellSouth Telecommunications, Inc. and United Telephone-Southeast, Inc., the parties shall file a matrix outline explaining cost variations **no later than April 12, 2001**.

3. The Tennessee Regulatory Authority will consider the issues listed herein at the regularly scheduled May 1, 2001 Authority Conference unless otherwise noticed by the Tennessee Regulatory Authority.<sup>11</sup>

4. The Executive Secretary shall issue a notice setting a due date for all comments on the issue of whether the Tennessee Regulatory Authority may request revenue information from and,

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<sup>10</sup> A commercial mobile radio service is:

A mobile service that is (a)(1) provided for profit, i.e., with the intent of receiving compensation or monetary gain; (2) An interconnected service; and (3) Available to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public; or (b) The functional equivalent of such a mobile service described in paragraph (a) of this section.

47 C.F.R. § 20.3. A mobile service is:

A radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes:

(a) Both one-way and two-way radio communications services;  
(b) A mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation; and  
(c) Any service for which a license is required in a personal communications service under part 24 of this chapter.

*Id.*; see 47 C.F.R. § 20.9 (listing services regulated as commercial mobile radio services).


<sup>11</sup> On Friday, April 20, 2001, the Executive Secretary's Office distributed the Conference Agenda for the May 1, 2001 Authority Conference. Docket Number 97-00888 does not appear on that Conference Agenda for any purpose. Therefore, it follows that the Authority will not consider these issues until after the May 1, 2001 Authority Conference.

ultimately, require contribution to the Universal Service fund by CMRS providers. The notice shall be sent to all telecommunications carrier as defined in the *Interim Order on Phase I of Universal Service*.

5. Any party aggrieved with the Pre-Hearing Officer's decision in this matter may file a Petition for Reconsideration with the Pre-Hearing Officer within fifteen (15) of the date of this Order.

  
Sara Kyle, Chairman, acting as  
Pre-Hearing Officer

ATTEST:

  
K. David Waddell, Executive Secretary